

REMARKS

I. Introduction

Claims 1 to 19 are pending in the present application. In view of the foregoing amendments and the following remarks, it is respectfully submitted that the present application is in condition for immediate allowance, and reconsideration is respectfully requested.

II. Objection to Claim 16

As regards the objection to claim 16, while Applicants do not necessarily agree with the merits of this objection, to facilitate matters, claim 16 has been amended herein without prejudice to change "with lock" to --with a lock--. As such, it is respectfully submitted that the objection has been obviated, and withdrawal of this objection is respectfully requested.

III. Rejection of Claim 15 Under 35 U.S.C. § 112

As regards the rejection of claim 15 under 35 U.S.C. § 112, second paragraph, the Examiner will note that this claim has been amended herein without prejudice to change the phrase "the tailgate operable by the end switch as a function of the detected position of the spare-wheel carrier" to --the tailgate operable as a function of the position of the spare-wheel carrier detected by the end switch--, thereby obviating the present rejection. In view of the foregoing, withdrawal of this rejection is respectfully requested.

IV. Rejection of Claims 1 to 6 and 14 to 19 Under 35 U.S.C. § 103(a)

Claims 1 to 6 and 14 to 19 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of U.S. Patent No. 5,186,371 ("Jozefczak et al."), U.S. Patent No. 6,701,913 ("LeDuc et al.") and U.S. Patent No. 6,712,171 ("Farmer"). It is respectfully submitted that the combination of Jozefczak et al., LeDuc et al. and Farmer does not render unpatentable the present claims for at least the following reasons.

As an initial matter, the Examiner will note that claim 1, for example, has been amended herein without prejudice to recite that a control unit is configured to enable and block at least functions of a tailgate of a motor vehicle in connection with detection of a spare-wheel carrier in a predetermined open position. Support for

this amendment may be found, for example, on page 7, lines 10 to 15 of the Specification. Independent claims 5, 14 and 16 to 19 have been amended herein without prejudice in analogous manner.

None of the references relied upon disclose, or even suggest, that functions of a tailgate are enabled or blocked based on a position of a spare-wheel carrier. As such, the combination of Jozefczak et al., LeDuc et al. and Farmer does not disclose, or even suggest, all of the features set forth in the present claims. Consequently, the combination of Jozefczak et al., LeDuc et al. and Farmer does not render unpatentable the present claims.

Regarding the statements of Official Notice and allegations of well-known fact, Applicants respectfully traverse and respectfully request published information and/or an affidavit under 37 C.F.R. § 1.104(d)(2) in support of these unsupported statements and allegations.

In view of all of the foregoing, withdrawal of this rejection is respectfully requested.

V. Rejection of Claims 7 to 11 Under 35 U.S.C. § 103(a)

Claims 7 to 11 were rejected under 35 U.S.C. § 103(a) as unpatentable over a combination of Jozefczak et al., LeDuc et al., Farmer, U.S. Patent No. 4,597,354 ("Gelula I") and U.S. Patent No. 4,803,760 ("Gelula II"). It is respectfully submitted that the combination of Jozefczak et al., LeDuc et al., Farmer, Gelula I and Gelula II does not render unpatentable these claims for at least the following reasons.

Claims 7 to 11 ultimately depend from claim 1 and therefore include all of the features included in claim 1. As more fully set forth above, Jozefczak et al., LeDuc et al. and Farmer do not disclose, or even suggest, all of the features of claim 1, from which claims 7 to 11 ultimately depend. Gelula I and Gelula II do not disclose or suggest all of the features of claim 1 not disclosed or suggested by Jozefczak et al., LeDuc et al. and Farmer. Accordingly, it is respectfully submitted that the combination of Jozefczak et al., LeDuc et al., Farmer, Gelula I and Gelula II does not render unpatentable claims 7 to 11, which ultimately depend from claim 1.

In view of all of the above, withdrawal of this rejection is respectfully requested.

VI. Allowable Subject Matter

Applicants note with appreciation the indication of allowable subject matter contained in claims 12 and 13. In this regard, the Examiner will note that claim 12 has been rewritten in independent form to include all of the features of claims 5 and 7 as previously presented. It is therefore respectfully submitted that claim 12, as well as claim 13, which depends from claim 12, are in condition for immediate allowance.

VII. Conclusion

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

Date: September 12, 2007

By: /Clifford A. Ulrich/
Clifford A. Ulrich
Reg. No. 42,194

KENYON & KENYON LLP
One Broadway
New York, New York 10004
(212) 425-7200
CUSTOMER NO. 26646